

REMARKS

Favorable reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 1-2, 4-29, and 31-32 remain in this application, including independent claims 1, 5, 16, 22, and 31. Claims 1, 4, and 5 have been amended in this paper, while claims 3 and 30 have been cancelled. Independent claim 1, for instance, is directed to a heat transfer material comprising: a substrate layer; a release coating layer; a peelable film layer overlying the release coating layer; and a discontinuous polymer layer that includes an opacifying material and a crosslinking agent, wherein the discontinuous polymer layer overlies the peelable film layer.

In the Office Action, claims 1-32 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 and 17-28 of copending Application Serial No. 10/003,697 in view of U.S. Patent No. 6,277,229 to Popat, et al. Without commenting on the propriety of this rejection, Applicants are submitting herewith a Terminal Disclaimer with respect to the 10/003,697 Application, pursuant to 37 C.F.R. § 1.321(c).

Claims 1-32 were also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-40 of copending Application Serial No. 09/614,829 in view of U.S. Patent No. 6,277,229 to Popat, et al. The Office Action states at page 3:

The pending claims of '698 differ from the recitation of a discontinuous polymer layer. However, Patent '299 [sic] teaches it would have been obvious to include a discontinuous polymer layer because Patent '299 [sic] discloses printing polymeric adhesive coatings are conventional for application in transfers (col. 14, lines 15-20) for ink jet printers (col. 6, lines 30-33). Claims 1-32 are included in claims 21-40 of 09/614,829.

Applicants respectfully submit, however, that claims 1-2, 4-29, and 31-32 of the present application are patentably distinct over claims 21-40 of the '829 Application in view of Popat, et al. Specifically, there would be no motivation for one of ordinary skill in the art to combine Popat, et al. with the claims of the '829 Application and arrive at the presently claimed heat transfer materials and method. Popat, et al. is directed to a

cold image transfer process (*not* a heat transfer material) that uses no supplemental heat in the course of image transfer and that uses an image transfer sheet having a release-coated liner sheet, a layer of substantially water-accepting adhesive, and an ink jet transmissive detackifying layer. In Popat, et al., the image sheet is applied to a substrate at ambient temperature with the adhesive bonding directly to the substrate. Popat, et al. does not disclose or suggest a heat transfer material having, among other layers, a discontinuous layer that overlies a peelable film layer.

Thus, Applicants respectfully traverse the obviousness-type double patenting rejection of the present claims based on claims 21-40 of Application Serial No. 09/614,829 in combination with Popat, et al.

At page 5, the Office Action indicated that claims 16-29 and 31-32, which include independent claims 16, 22, and 31, are allowable. Additionally, the Office Action objected to dependent claims 3-10 as being dependent upon a rejected base claim, but stated that claims 3-10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As shown at pages 2-3 of this paper, Applicants have amended independent claim 1 to include the limitations of what was dependent claim 3, and current claims 2, 4, and 11-15 depend from amended claim 1. Additionally, Applicants have amended claim 5 by placing it in independent format to include all the limitations of what was claim 1, and current claims 6-10 depend from amended claim 5. Lastly, Applicants have cancelled claims 3 and 30.

Therefore, Applicants respectfully submit that claims 1-2, 4-29, and 31-32 are allowable. Additionally, Applicants note that the patentability of the dependent claims does not necessarily hinge on the patentability of independent claims 1, 5, 16, 22, and 31. In particular, it is believed that some or all of the dependent claims may possess features that are independently patentable, regardless of the patentability of claims 1, 5, 16, 22, and 31.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Should any issues remain after consideration of this Amendment, Examiner Dicus is invited and encouraged to

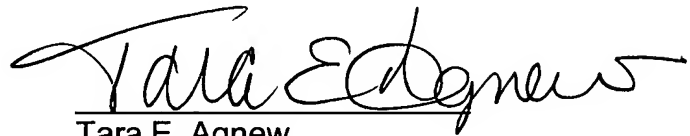
Appl. No. 10/003,698
Amdt. Dated October 28, 2004
Reply to Office Action of July 28, 2004

telephone the undersigned. Otherwise, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.

A handwritten signature in black ink, appearing to read "Tara E. Agnew", written over a horizontal line.

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